

Ronald S. Caswell (Cal. Bar No. 161113)  
rscaswell@sbcglobal.net  
CASWELL & CANNON  
1625 Warnall Avenue, Suite 100  
Los Angeles, California 90024  
Telephone: (310) 282-8150  
Facsimile: (310) 282-8140

*Attorneys for Plaintiff*

Don A. Hernandez (Cal. Bar No. 125119)  
Don\_Hernandez@gshllp.com  
Cristina D. Hernandez (Cal. Bar No. 283500)  
Cristina\_Hernandez@gshllp.com  
GONZALEZ SAGGIO & HARLAN LLP  
2 North Lake Avenue, Suite 930  
Pasadena, CA 91101  
Telephone: (626) 440-0022  
Facsimile: (626) 792-1718

### *Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

THE CITY OF LOS ANGELES, LOS  
ANGELES FIRE & POLICE PENSION  
*ex rel* MARCELLUS TAYLOR,

CASE NO. 2:15-cv-05343-RGK-RAOx

## **RULE 26(f) JOINT SCHEDULING REPORT**

Judge: Hon. R. Gary Klausner  
Date: November 23, 2015  
Time: 9:00 a.m.  
Ctrm: 850

Plaintiff

VS.

DEUTSCHE BANK, AG, *et al.*,

## Defendants.

1                   Under Federal Rule of Civil Procedure 26(f), Civil Local Rule 26-1, and the  
 2 August 13, 2015 Order Setting Scheduling Conference (Dkt. No. 20), the parties  
 3 have conferred and jointly submit this Rule 26(f) Joint Scheduling Report.

4 **I. NATURE OF THE CASE AND CONTENTIONS OF THE PARTIES**

5 **A. Plaintiff's Statement**

6                   This *qui tam* action stems from Deutsche Bank's orchestration of a massive,  
 7 ongoing "pay-to-play" securities fraud perpetrated on Los Angeles Fire & Police  
 8 Pension ("LAFP"). At all relevant times, Deutsche Bank owned a controlling  
 9 interest in a now-defunct private equity consulting firm called Aldus Equity  
 10 Partners ("Aldus"). In this role, Deutsche Bank systematically defrauded LAFP by  
 11 recommending that LAFP invest \$355 million into various private equity funds not  
 12 because those funds were wise investments for LAFP, but instead to enrich  
 13 Deutsche Bank and its network of corrupt, politically-connected "placement  
 14 agents."

15                   Marcellus Taylor, a former Aldus partner and an original source of the  
 16 allegations alleged in the Complaint, cooperated extensively with state and federal  
 17 government agencies investigating "pay-to-play" securities fraud in New York and  
 18 New Mexico. That cooperation was instrumental in any public disclosures that  
 19 have taken place to date. As for the claims alleged in the Complaint, Deutsche  
 20 Bank's role in the fraud perpetrated on LAFP has never before been publicly  
 21 disclosed. Nor has any prior litigation been brought to hold Deutsche Bank  
 22 accountable for the harm it has caused to LAFP.

23                   Despite its continued claims of ignorance of the fraudulent scheme, Mr.  
 24 Taylor has personal knowledge that Deutsche Bank actively participated in the  
 25 fraud on LAFP, and worked closely with Aldus' corrupt founding partner to  
 26 maximize profits for Deutsche Bank at the expense of LAFP even after Deutsche  
 27 Bank learned (from Mr. Taylor) that that partner had accepted an illegal kickback

1 from one of Deutsche Bank's own placement agents. Mr. Taylor's personal  
2 knowledge is detailed in a Complaint that names the specific Deutsche Bank  
3 executives involved in the fraud, the specific fraudulent investments Deutsche  
4 Bank recommended to LAFP, and the amounts of damages caused by those  
5 investments.

6 **B. Defendant's Statement**

7 This is the third lawsuit filed by Marcellus Taylor against Deutsche Bank,  
8 each with similar claims and based on the same underlying facts. (The other two  
9 have been dismissed by federal and state courts in Texas and New Mexico.)  
10 Taylor was a partner in the now defunct firm Aldus Equity Partners ("Aldus"), a  
11 private equity consulting firm that Los Angeles Fire & Police Pensions ("LAFP")  
12 hired to recommend investments for its private equity portfolio. Taylor alleges that  
13 one of his partners in the Aldus firm was corrupt and that he knew it but never  
14 brought that misconduct to the attention of his client LAFP at the time. He alleges  
15 now that Aldus breached its fiduciary duty to LAFP by recommending sub-par  
16 investment products that were allegedly chosen to enrich placement agents who  
17 were part of a corrupt arrangement with his former partner. He purports to bring  
18 this action in a representative capacity on behalf of LAFP (which has declined to  
19 intervene), but with the incentive that under the California False Claims Act (Cal.  
20 Gov. Code §§ 12650-56, the "CFCA"), he stands to make a bounty of up to 50%  
21 for himself if he is successful. Deutsche Bank was a minority investor in Aldus  
22 between 2007 and 2009, and Taylor seeks to hold Deutsche Bank liable for  
23 Aldus's alleged misconduct.

24 Taylor is not a whistleblower such as the CFCA was designed to reward.  
25 Since 2009, Aldus's possible involvement in pay-to-play practices has been the  
26 focal point of governmental investigations by the SEC, the FBI, the New York  
27 Attorney General, state authorities in New Mexico, and the LAFP itself. It has also

1 been the subject of much litigation, including a federal enforcement proceeding  
2 against Aldus by the SEC, a suit against Taylor himself (among others) by the New  
3 Mexico Educational Retirement Board, and additional claims brought by other  
4 private parties. Deutsche Bank's investment in Aldus was also well known and  
5 publicly disclosed, and numerous prior lawsuits over the last five years have  
6 sought (unsuccessfully) to hold Deutsche Bank responsible for Aldus's  
7 misconduct. This case follows on the heels of all of these well-publicized  
8 investigations and allegations, yet Taylor claims to have discovered the alleged  
9 fraud. As set forth in more detail in Deutsche Bank's motion to dismiss, Taylor's  
10 claims are precluded by the CFCA's public disclosure bar, the statute of  
11 limitations, and Taylor's failure to plead fraud with particularity.

12 On the merits, Deutsche Bank maintains that it was unaware of any  
13 misconduct by Aldus or any of its partners until the New York Attorney General  
14 was investigating the matter, and that it would never have bought a stake in Aldus  
15 (a transaction in which it lost its entire \$28 million investment) if it had been aware  
16 of such facts.

## 17 **II. MATTERS TO BE ADDRESSED UNDER RULE 26(f)**

### 18 **A. Timing and Form of Rule 26(a) Disclosures**

#### 19 **1. Rule 26(a)(1) disclosures**

20 The parties agree to exchange Rule 26(a)(1) initial disclosures by December  
21 4, 2015.

### 22 **B. Discovery and Pretrial Plan**

23 Deutsche Bank has already moved twice to dismiss this case, and,  
24 particularly since all of Taylor's earlier cases against Deutsche Bank have also  
25 been dismissed, it does not believe that the parties should have to incur the sizable  
26 cost of discovery unless the case survives the threshold legal challenge to the  
27 sufficiency of Taylor's claims. Deutsche Bank's second motion to dismiss is fully  
28

1 briefed and the Court has taken the motion under submission. Deutsche Bank  
2 proposes that discovery (other than Rule 26(a)(1) initial disclosures) should be  
3 stayed until the motion to dismiss is decided.

4 Taylor believes that party and non-party discovery should begin as soon as  
5 possible.

6 The parties agree that fact discovery should take 12 months from the date  
7 when it commences.

8 **D. Electronically Stored Information (“ESI”)**

9 The parties state that they have taken reasonable, good-faith steps to  
10 preserve potentially relevant ESI as required under the Federal Rules of Civil  
11 Procedure.

12 **E. Privilege and Protective Order**

13 The parties plan to submit to the Court a stipulated protective order  
14 concerning treatment of confidential information.

15 **F. Additional Limitations on Discovery**

16 The parties agree that no changes should be made in the limitations on  
17 discovery imposed under the Federal Rules of Civil Procedure and the Local Rules  
18 of the Central District of California.

19 **III. MATTERS TO BE ADDRESSED UNDER LOCAL RULE 26-1**

20 **A. Complex Cases**

21 The parties agree that this is not a complex case under Local Rule 26-1(a).

22 **B. Dispositive or Partially Dispositive Motions**

23 The parties agree that summary judgment motions should be due 45 days  
24 after the close of discovery.

1                   **C. ADR**

2                   The parties agree to proceed with ADR Procedure No. 3, under L.R. 16-  
3 15.4, by participating in a private dispute resolution proceeding within 9 months  
4 after the commencement of discovery.

5                   **D. Trial Estimate**

6                   The parties estimate that trial will take 8 days.

7                   **E. Additional Parties**

8                   Deutsche Bank does not intend to join any additional parties.

9                   Taylor wishes to reserve the right to join additional parties (other than  
10 Deutsche Bank-affiliated persons and entities), and agrees that any motion seeking  
11 leave to join additional parties shall be filed no later than 3 months after the  
12 commencement of discovery. Deutsche Bank reserves the right to oppose any such  
13 motion.

14                   **F. Expert Witnesses**

15                   The parties agree to exchange Rule 26(a)(2) disclosures 10 months after the  
16 commencement of discovery.

17                   Respectfully submitted,

18                   **CASWELL & CANNON**

19                   By: /s/ Ronald S. Caswell

20                   Ronald S. Caswell (Cal. Bar No. 161113)  
21                   rscaswell@sbcglobal.net  
22                   1625 Warnall Avenue, Suite 100  
23                   Los Angeles, California 90024  
24                   Telephone: (310) 282-8150  
25                   Facsimile: (310) 282-8140

## COWLES AND THOMPSON PC

Todd J Harlow (*admitted pro hac vice*)  
901 Main Street, Suite 3900  
Dallas, Texas 75202  
Telephone: (214) 672-2138  
Facsimile: (214) 672-2338  
tharlow@cowlesthompson.com

*Attorneys for Plaintiff*

**GONZALEZ SAGGIO & HARLAN LLP**

By: *Cristina D. Hernandez*  
Don A. Hernandez (Cal. Bar No. 125119)  
*Don\_Hernandez@gshllp.com*  
Cristina D. Hernandez (Cal. Bar No.  
283500)  
*Cristina\_Hernandez@gshllp.com*  
2 North Lake Avenue, Suite 930  
Pasadena, CA 91101  
Telephone: (626) 440-0022  
Facsimile: (626) 792-1718

# **FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP**

Peter L. Simmons (admitted *pro hac vice*)  
Samuel P. Groner (admitted *pro hac vice*)  
One New York Plaza  
New York, New York 10004-1980  
Telephone: (212) 859-8000  
Facsimile: (212) 859-4000  
[peter.simmons@friedfrank.com](mailto:peter.simmons@friedfrank.com)  
[samuel.groner@friedfrank.com](mailto:samuel.groner@friedfrank.com)

## *Attorneys for Defendants*